

By: Lucio

S.B. No. 723

A BILL TO BE ENTITLED

AN ACT

relating to imposing an additional duty on mortgage brokers with respect to mortgage applicants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 156, Finance Code, is amended by adding Section 156.216 to read as follows:

Sec. 156.216. MORTGAGE BROKER FIDUCIARY DUTY. (a) A mortgage broker owes a fiduciary duty to a mortgage applicant in the origination of a mortgage loan.

(b) The finance commission shall adopt rules to implement Subsection (a). In adopting rules under this subsection, the commission shall require that a mortgage broker:

(1) make reasonable efforts to secure a loan that is suitable to the mortgage applicant considering the mortgage applicant's circumstances, including the loan options, rates, charges, and repayment terms for which the applicant qualifies; and

(2) be knowledgeable about and offer the mortgage applicant the most favorable terms available to a person having the applicant's qualifications known to the mortgage broker.

(c) The duties of a mortgage broker, as prescribed by this section and rules adopted under this section, may not be waived or disclaimed unless otherwise provided by law.

SECTION 2. Not later than December 1, 2009, the Finance Commission of Texas shall adopt the rules required by Section

1 156.216, Finance Code, as added by this Act.

2           SECTION 3. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2009.